

## REMARKS

Fifty-six claims are pending in the present Application. Claims 1-56 currently stand rejected. Claims 1, 21, and 44-45 are amended herein. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

### 35 U.S.C. § 103

On page 3 of the Office Action, the Examiner rejects claim 45 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,701,058 to Tsubaki (hereafter Tsubaki) in view of U.S. Patent No. 7,239,346 to Priddy (hereafter Priddy). The Applicants respectfully traverse this rejection for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations" (emphasis added).

The initial burden is therefore on the Examiner to establish a *prima facie* case of

obviousness under 35 U.S.C. § 103(a).

With regard to claim 45, “means-plus-function” language is utilized to recite elements and functionality similar to those recited in claims 1 and 21 as discussed below. Applicants therefore incorporate those remarks by reference with regard to claim 45. In addition, the Courts have frequently held that “means-plus-function” language, such as that of claim 45, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof.

Applicants specifically direct the Examiner’s attention to Applicants’ discussion of FIGS. 8-9 (Specification, page 15, line 29 through page 18, line 28) which describes in detail the Applicants’ claimed “means for transferring said data from said means for capturing to said means for receiving.” Applicants submit that, in light of the substantial differences between the teachings of Tsubaki and Priddy as compared to Applicants’ invention disclosed in the Specification, claim 45 is therefore not made obvious by the teachings of the cited references.

Furthermore, Applicants have herein amended claim 45 to recite “*means for performing a repeat transfer procedure whenever said means for receiving fails to successfully receive all of said data, said means for transferring specifically indicating to said means for receiving that additional information from said data will subsequently be transmitted as a part of an interrupted transmission from*

*said data transfer procedure,”* (emphasis added). Applicants submit that the cited references fail to teach or suggest the amended limitations of claim 45.

On page 4 of the Office Action, the Examiner concedes that Tsubaki “fails to disclose that a successful transmission message is received when an image is successfully transmitted.” Applicants concur. The Examiner then points to Priddy to purportedly remedy these deficiencies in Tsubaki. Applicants traverse. Priddy teaches “an integrated imaging module” that “may be incorporated into any portable wireless communication product” (see column 2, lines 30-57).

However, Applicants submit that Priddy fails to teach utilizing a transfer manager for performing repeat transfer procedures whenever the data destination fails to successfully receive all of the intended data. In particular, Priddy nowhere discusses the transfer manager specifically “*indicating*” to the data destination “*that additional information from said data will subsequently be transmitted as a part of an interrupted transmission from said data transfer procedure,*” as now recited by Applicants.

For at least the foregoing reasons, the Applicants submit that claim 45 is not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejection under 35 U.S.C. § 103 is thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claim 45 under 35 U.S.C. § 103.

On page 4 of the Office Action, the Examiner rejects claims 1-5, 21-25, 41, 43, and 46 under 35 U.S.C. § 103(a) as being unpatentable over U.S Patent No.

5,737,491 to Allen et al. (hereafter Allen) in view of Tsubaki and Priddy, and further in view of U.S. Patent No. 6,317,639 to Hansen (hereafter Hansen) The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations. The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of independent claims 1 and 21, Applicants respond to the Examiner's §103 rejections as if applied to amended independent claims 1 and 21. For example, amended independent claim 1 now recites "*said transfer manager performing a repeat transfer procedure whenever said data destination fails to successfully receive all of said data, said transfer manager specifically indicating to said data destination that additional information from said data will subsequently be transmitted as a part of an interrupted transmission from said data transfer procedure*," (emphasis added), which are limitations that are not taught or suggested either by the cited references, or by the Examiner's citations thereto.

Allen teaches a camera that transmits images to a "fulfillment server" in response to voice commands that are recognized by a speech recognizer in the camera" (see column 1, lines 33-53). In the Office Action, the Examiner concedes that "Allen is not found to disclose a transfer manager . . . transferring said data

if said data stored in said data buffers exceeds a predetermined threshold amount," as claimed by Applicants. Applicants concur. The Examiner then points to Tsubaki to purportedly remedy these deficiencies.

Tsubaki teaches a camera that uploads images to a recorder device whenever remaining storage space in the camera is less than required for a designated number of additional images. Tsubaki refers to the foregoing remaining storage space as "residual capacity" (see column 2, lines 7-10). Furthermore, Tsubaki explicitly limits the size of the residual capacity/transfer-triggering threshold of the storage space in terms of the number of additional images that may be stored in the storage space.

In particular, Tsubaki "calculates the amount of the image data (i.e., the number of images) that the recording medium 13 can further record . . . ." (emphasis added) (see step 16 of FIG. 3 and column 7, line 65 to column 8, line 12). Tsubaki therefore utilizes a cumbersome procedure to calculate a threshold that is the "number of images" that may be additionally stored in the camera device. Tsubaki triggers an upload to the recorder device only if the number of additional images "becomes less than a predetermined threshold", for example, five more images (column 2, lines 7-10).

In contrast, Applicants upload image data to a data destination when "said data stored in said data buffers is greater than a predetermined threshold amount that is not subject to specific threshold-selection size limitations," (see claims 1 and 21). Applicants therefore compare "data stored" to a predetermined threshold

whose “size” is freely selectable, and not limited to multiples of additional images, as taught by Tsubaki.

In addition, Applicants trigger an upload to the data destination when the data stored “is greater than a predetermined threshold amount”. Tsubaki therefore monitors a different parameter (“residual capacity” of Tsubaki versus the “data stored” of Applicants) for triggering uploads. Furthermore, Tsubaki utilizes a directly opposite criterium with respect to the monitored parameter for triggering an upload (“less than” versus “greater than”). Applicants therefore submit that Tsubaki fails to teach Applicants’ claimed invention.

In addition, Applicants submit that none of the cited references teach “*said transfer manager performing a repeat transfer procedure whenever said data destination fails to successfully receive all of said data, said transfer manager specifically indicating to said data destination that additional information from said data will subsequently be transmitted as a part of an interrupted transmission from said data transfer procedure*” (emphasis added), as claimed by Applicants. For at least the foregoing reasons, Applicants therefore submit that independent claims 1 and 21 are not anticipated by the teachings of Allen, Tsubaki, Priddy, and Hansen.

Regarding the Examiner’s rejection of dependent claims 2-5, 22-25, 41, 43, 46, and 50-56, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also

not identically taught or suggested. For at least these reasons, Applicants request reconsideration and withdrawal of the rejections of dependent claims 2-5, 22-25, 41, 43, 46, and 50-56.

Furthermore, with regard to the Examiner's rejection of dependent claims 5 and 25, Applicants respond to the Examiner's §103 rejections as if applied to amended claims 5 and 25, which now recite a camera that is economically implemented with "*data buffers being economically implemented using a limited memory-size configuration*" that is made possible because the camera's transfer manager has the capability to perform data transfer procedures to advantageously offload data to a remote data destination whenever the small local data buffers become full. Applicants submit that these limitations are not taught or suggested either by the cited references, or by the Examiner's citations thereto. In particular, Applicants submit that the cited references fail to teach "*economically*" implementing a memory device with a relatively smaller storage capacity that is feasible only because of "*being able*" to periodically "*offload said data*," as claimed by Applicants.

With regard to the rejection of claim 41, Applicants submit that the cited references fail to teach that "*said imaging device is implemented without removable storage media capabilities*," as claimed by Applicants. On the contrary, the cited section of Allen explicitly states that digital images may be stored in "a removable solid state memory card" (column 1, line 23). In the Office Action, the Examiner cites column 1, lines 21-24, of Allen as support for the rejection of claim 41. Applicants traverse, and respectfully submit that the "removable solid-

state memory card" referred to by the Examiner teaches away from the language of claim 41 which states that "*said imaging device is implemented without removable storage media capabilities*" (emphasis added).

In addition, with respect to the rejection of claim 46, the Examiner cites column 1, lines 20-30, of Tsubaki as support for the statement that "transfers occur by means of a removable storage device." Applicants traverse. Applicants submit that column 1, lines 20-30, of Tsubaki fails to describe any type of "removable storage device," as claimed by Applicants. In particular, Applicants submit that column 1, lines 20-30, of Tsubaki mention only a "memory card." Tsubaki fails to mention that the memory card is "removable," as contended by the Examiner. Applicants submit that the memory card of Tsubaki is a fixed and non-removable circuit board (card) located inside of a digital camera. Applicants therefore respectfully request reconsideration and allowance of claim 46.

With regard to the rejection of claim 53, the Examiner cites "phone number, email address, etc." of Allen against Applicants' claimed limitations. Applicants respectfully traverse, and submit that the "phone number, email address, etc." cited by the Examiner are from the owner of the camera and do not pertain to the "data destination." Applicants therefore submit that the rejection of claim 53 is improper.

With regard to the rejections of claim 54 and 56, the Examiner repeatedly takes "Official Notice" as support for the rejections without providing any specific references for support. Applicants submit that the particular combination of claimed limitations would not be obvious to one skilled in the art at the time of

the invention. Applicants further submit that the Examiner has improperly utilized Official Notice because the cited limitations are uniquely utilized by the Applicants to produce novel combinations that are not well-known. Applicants therefore respectfully request the Examiner to cite specific references in support of these rejections, and failing to do so, to reconsider and withdraw the rejections of claims 54 and 56 so that the present Application may issue in a timely manner.

For at least the foregoing reasons, the Applicants submit that claims 1-5, 21-25, 41, 43, 46, and 50-56 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 1-5, 21-25, 41, 43, 46, and 50-56 under 35 U.S.C. §103.

On page 11 of the Office Action, the Examiner rejects claims 6-10, 12, 15, 17-18, 26-30, 32, and 37-38 under 35 U.S.C. § 103 as being unpatentable over Allen in view of Tsubaki, Priddy, and Hansen, and further in view of U.S. Patent No. 6,522,352 to Strandwitz et al. (hereafter Strandwitz). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations. The initial

burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 6-10, 12, 15, 17-18, 26-30, 32, and 37-38, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 6-10, 12, 15, 17-18, 26-30, 32, and 37-38, so that these claims may issue in a timely manner.

Furthermore, claims 6 and 26 recite "*an arbitration procedure . . . to transfer said data to said data destination, said transfer manager being authorized by said wireless communications network to perform said data transfer procedure when sufficient bandwidth is available on said wireless communications network for transferring a specified amount of said data.*" Applicants submit that these limitations are not taught or suggested either by the cited references, or by the Examiner's citations thereto. In particular, Applicants submit that the cited references fail to teach transferring only "a specified amount" of a total data package. Applicants therefore request that the rejections of claim 6 and 26 be reconsidered and withdrawn.

With regard to the rejections of claims 10 and 30, Applicants submit that the cited references nowhere teach or disclose providing "status information"

regarding both “said data transfer procedure and said arbitration procedure by using a user interface . . .,” as recited by Applicants in claims 10 and 30.

Applicant therefore respectfully submits that the rejections of claims 10 and 30 under 35 U.S.C. § 103(a) are improper.

In addition, with regard to the rejections of claims 15 and 35, Applicants submit that the cited references fail to teach “*said transfer manager responsively repeating said data transfer procedure to retransmit said data from said data buffers to said data destination until said data transfer procedure is successfully completed*,” as claimed by Applicants. On the contrary, Strandwitz explicitly states that “[i]f the receiver does not successfully receive video frame N before this deadline, the video frame is dropped” (column 8, lines 65-67).

For at least the foregoing reasons, the Applicants submit that claims 6-10, 12, 15, 17-20, 26-30, 32 and 37-38 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 6-10, 12, 15, 17-20, 26-30, 32, and 37-38 under 35 U.S.C. § 103.

On page 16 of the Office Action, the Examiner rejects claims 11 and 31 under 35 U.S.C. § 103 as being unpatentable over Allen in view of Tsubaki, Priddy, Hansen, and Strandwitz, and further in view of U.S. Patent No. 5,128,776 to Scorse et al. (hereafter Scorse). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations. The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 11 and 31, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 11 and 31, so that these claims may issue in a timely manner.

In addition, the Examiner states that Scorse discloses that “[e]ach block is checked for errors and if errors are found, the receiver sends a list of bad blocks back to the receiver requesting those be resent.” As the Examiner further states, Scorse therefore uses “a method of partial data transfer for the benefit of . . . detecting data transfer errors.” However, Applicants submit that the cited references nowhere teach “*said transfer manager, because of bandwidth limitations of said wireless communications network, performs an initial partial data transfer procedure to transfer only an initial portion of said data to said data destination, said transfer manager subsequently repeating said arbitration*

*procedure and then performing a final partial data transfer procedure to transfer a final portion of said data to said data destination when sufficient additional bandwidth is available,” as claimed by Applicants.*

For at least the foregoing reasons, the Applicants submit that claims 11 and 31 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 11 and 31 under 35 U.S.C. § 103.

On page 17 of the Office Action, the Examiner rejects claims 13 and 33 under 35 U.S.C. § 103 as being unpatentable over Allen in view of Tsubaki, Priddy, Hansen, and Strandwitz, and further in view of U.S. Patent No. 6,058,304 to Callaghan et al. (hereafter Callaghan). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations. The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner’s rejection of dependent claims 13 and 33, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of

these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 13 and 33, so that these claims may issue in a timely manner.

For at least the foregoing reasons, the Applicants submit that claims 13 and 33 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 13 and 33 under 35 U.S.C. § 103.

On page 18 of the Office Action, the Examiner rejects claims 14, 16, and 34-36 under 35 U.S.C. § 103 as being unpatentable over Allen in view of Tsubaki, Priddy, Hansen, Strandwitz, and Callaghan, and still further in view U.S. Patent No. 6,393,470 to Kanevsky et al. (hereafter Kanevsky). The Applicants respectfully traverses these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations. The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 14, 16, and 34-36, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 14, 16, and 34-36, so that these claims may issue in a timely manner.

In addition, the Examiner concedes that none of the references disclose "an imaging device also erasing said data from said data buffers in response to said transfer confirmation." Applicants concur. The Examiner then points to Kanevsky to purported remedy these deficiencies. Kanevsky teaches a network of servers that monitor portable electronic devices until one of the servers "detects that some embedded computer, e.g. (video) camera, is near full . . ." (see column 2, lines 14-15). In Kanevsky, when a server detects that a camera is nearly full of image data, then "this server moves stored images to a storage server . . ." (see column 2, lines 27-28). Kanevsky therefore discloses a pull operation in which an external server network monitors portable devices, and actively pulls the image data from the portable devices.

In contrast, Applicants affirmatively recite "a transfer manager of said imaging device for transferring said data from said imaging device to said data destination." Unlike Kanevsky, Applicants' explicitly recite the transfer manager of the imaging device "*monitoring said data buffers, and transferring said data in a*

*data transfer procedure if a total amount of said data stored in said data buffers is greater than a predetermined threshold amount.*" Applicants thus disclose and claim a push operation in which the imaging device monitors its own memory storage level, and actively pushes the image data to a specified destination.

For at least the foregoing reasons, Applicants therefore submit that Kanevsky teaches away from Applicants' invention. A prior art reference which teaches away from the presently claimed invention is "strong evidence of nonobviousness." In re Hedges, 783 F.2d 1038, 228 U.S.P.Q. 2d 685 (Fed. Cir. 1987).

Furthermore, the Examiner cites column 6, lines 9-11, of Kanevsky as support for the statement that "Kanevsky is found to teach . . . erasure of data after a transfer has occurred." Applicants submit that column 6, lines 9-11, of Kanevsky discusses a "partitioning" of data, and not a "transfer" of data, as disclosed and claimed by Applicants.

With further regard to the rejection claim 16, the Examiner cites column 6, lines 9-11, of Kanevsky as support for the statement that "Kanevsky is found to teach . . . erasure of data after a transfer has occurred." Applicants submit that column 6, lines 9-11, of Kanevsky discusses a "partitioning" of data, and not a "transfer" of data, as disclosed and claimed by Applicants. For at least the foregoing reasons, Applicants therefore submit that the rejection of claim 16 is improper.

For at least the foregoing reasons, the Applicants submit that claims 14, 16, and 34-36 are not unpatentable under 35 U.S.C. § 103 over the cited

references, and that the rejections under 35 U.S.C. § 103 is thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claims 14, 16, and 34-36 under 35 U.S.C. § 103.

On page 22 of the Office Action, the Examiner rejects claims 19-20 and 39-40 under 35 U.S.C. § 103 as being unpatentable over Allen in view of Tsubaki, Priddy, Hansen, Strandwitz, and Kanevsky. The Applicants respectfully traverses these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations. The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 19-20 and 39-40, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 19-20 and 39-40, so that these claims may issue in a timely manner.

On page 23 of the Office Action, the Examiner rejects claim 42 under 35 U.S.C. § 103 as being unpatentable over Allen in view of Tsubaki, Priddy, Hansen, and Kanevsky. The Applicants respectfully traverses this rejection for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations. The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claim 42, for at least the reasons that this claim is dependent from a respective independent claims whose limitations are not identically taught or suggested, the limitations of dependent claim 42, when viewed through or in combination with the limitations of the respective independent claim, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claim 42, so that this claim may issue in a timely manner.

In the Office Action, the Examiner cites column 4, lines 54-67, of Kanevsky in support of the rejection of claim 42. This section of Kanevsky is limited to briefly describing that data "can be compressed and encrypted" by a hardware compression module." Applicants respectfully submit that this section of Kanevsky nowhere teaches a "*conversion software module for converting said data from a first format that is compatible with said imaging*

*device into a second format that is compatible with said data destination, said first format being incompatible with said data destination*" as claimed by Applicants

In addition, as discussed above in conjunction with claims 14 and 34, Applicants submit that Kanevsky discloses a pull operation, while Applicants disclose and claim a push operation in which the imaging device monitors its own memory storage level, and actively pushes the image data to a specified destination. Applicants therefore submit that Kanevsky *teaches away* from Applicants' invention. A prior art reference which teaches away from the presently claimed invention is "strong evidence of nonobviousness." In re Hedges, 783 F.2d 1038, 228 U.S.P.Q. 2d 685 (Fed. Cir. 1987).

For at least the foregoing reasons, the Applicants submit that claim 42 is not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 is thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claim 42 under 35 U.S.C. § 103.

On page 24 of the Office Action, the Examiner rejects claim 44 under 35 U.S.C. § 103 as being unpatentable over Tsubaki and Priddy in view of U.S. Patent No. 6,965,399 to Oka et al. (hereafter Oka). The Applicant respectfully traverses this rejection for at least the following reasons.

Applicant maintains that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for

a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

As discussed above in conjunction with claims 1 and 21, Applicants submit that none of the cited references teach "*performing a repeat transfer procedure with said transfer manager whenever said data destination fails to successfully receive all of said data, said transfer manager indicating to said data destination that additional information from said data will subsequently be transmitted as a part of an interrupted transmission from said data transfer procedure*" (emphasis added), as now claimed by Applicants. For at least the foregoing reasons, the Applicants submit that claim 44 is not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejection under 35 U.S.C. § 103 is thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claim 44 under 35 U.S.C. § 103.

On page 26 of the Office Action, the Examiner rejects claim 47 under 35 U.S.C. § 103 as being unpatentable over Allen in view of Tsubaki, Priddy, and Hansen, and further in view of U.S. Patent No. 6,256,059 to Fichtner (hereafter Fichtner). The Applicant respectfully traverses this rejection for at least the following reasons.

Applicant maintains that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for

a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claim 47, for at least the reasons that this claim is dependent from an independent claim whose limitations are not identically taught or suggested, the limitations of dependent claim 47, when viewed through or in combination with the limitations of the independent claim, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claim 47, so that this claim may issue in a timely manner.

In addition, the Court of Appeals for the Federal Circuit has held that "obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination." In re Geiger, 815 F.2d 686, 688, 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). Applicants submit that the cited references nowhere suggest a combination that would result in Applicants' invention, and therefore the obviousness rejections under 35 U.S.C. § 103 are improper.

For at least the foregoing reasons, the Applicants submit that claim 47 is not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejection under 35 U.S.C. § 103 is thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claim 47 under 35 U.S.C. § 103.

On page 27 of the Office Action, the Examiner rejects claims 48-49 under 35 U.S.C. § 103 as being unpatentable over Allen in view of Tsubaki, Priddy, and Hansen, and further in view of U.S. Patent No. 6,256,059 to Patel et al. (hereafter Patel). The Applicant respectfully traverses these rejection for at least the following reasons.

Applicant maintains that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 48-49, for at least the reasons that these claims are dependent from an independent claim whose limitations are not identically taught or suggested, the limitations of dependent claims 48-49, when viewed through or in combination with the limitations of the independent claim, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 48-49, so that these claims may issue in a timely manner.

With further regard to the rejection of claims 48-49, the Applicants submit that implementing either an "Internet service provider" or an "Internet-based image service website" have likely been known for some time. Applicants therefore submit that their unique solution of utilizing the "Internet service

provider" or the "Internet-based image service website" to advantageously implement their claimed invention indicates the clear existence of secondary indicia of non-obviousness. For example, there apparently has been a long-felt need for Applicants' solution in the relevant technological field. Furthermore, other entities and individuals in analogous arts have apparently failed to successfully overcome the inventive problems in the unique manner disclosed by Applicants.

For at least the foregoing reasons, the Applicants submit that claims 48-49 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejection under 35 U.S.C. § 103 is thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claim 48-49 under 35 U.S.C. § 103.

Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections. Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-56 so that the present Application may issue in a timely manner. If there are any questions concerning this amendment, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

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